

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Monday, November 18, 2002 – 3:00 p.m. – Room 416 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. David Ure, House Chair  
Sen. Mike Dmitrich  
President Al Mansell  
Sen. Ed Mayne  
Rep. Judy A. Buffmire  
Rep. James R. Gowans  
Rep. Merlynn T. Newbold

**Members Absent:**

Sen. Michael G. Waddoups  
Speaker Martin R. Stephens

**Staff Present:**

Mr. Arthur L. Hunsaker, Research Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Cassandra N. Bauman, Legislative Secretary

**Note:** A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary at 538-1032.

**1. Committee Business**

Chair Ure called the meeting to order at 3:08 p.m.

**MOTION:** Rep. Gowans moved to approve the minutes of the November 5, 2002 meeting. The motion passed unanimously with Sen. Mayne absent for the vote.

**2. Policy and Rule in Statute – Options**

Mr. Hunsaker distributed "Rules and Policies: Options." He explained that the Committee requested staff provide options to the Committee for clarifying the definitions of policy and rule and retain the Legislature's authority to sunset policies of state agencies that conform to the definition of a rule.

Mr. Hunsaker explained three options for the Committee to consider: (1) amend definitions of "policy" and "rule;" (2) delete "policy," amend "rule," and create a new section reaffirming authority to sunset written agency statements that should have been promulgated as rules; and (3) take no action.

Ms. Allred indicated that the options have tried to incorporate the Committee's concerns regarding written agency policies that are enforced against individuals outside the agency and that conform to the definition of a rule, but that have not gone through the rulemaking process. She indicated that policies which are being enforced as rules have not been open to public comment as required under the rulemaking act.

Committee discussion followed.

Mr. Kent Bishop, Governor's Office of Planning and Budget, questioned whether federal model administrative rulemaking statutes were reviewed in studying options for the Committee. He stated that he would like an opportunity to review the options along with legal treatises that have been published on administrative rulemaking.

Mr. Ken Hansen, Director, Division of Administrative Rules, said that Option 2 was preferable, but questioned whether internal management policies would be enforceable within an agency with the proposed option.

Ms. Masuda Medcalf, Department of Commerce, said that the definition of rule in Option 2 is much broader than most people have probably anticipated.

**MOTION:** Sen. Stephenson moved that the Committee proceed with Option 2, pending further public comments in the next meeting. The motion passed unanimously.

### **3. Other Items / Adjourn**

The next meeting of the Administrative Rules Review Committee is scheduled for Tuesday, December 3, 2002 at 9:00 a.m.

**MOTION:** Sen. Mayne moved to adjourn the meeting. The motion passed unanimously.

Chair Ure adjourned the meeting at 4:12 p.m.